

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

MANUEL MATEO-EVANGELIO, JAIME)	
TREJO-CARDONA, GILBERTO CERVANTES-)	
VEGA, REYNALDO VILLALOBOS-MARTINEZ,)	
EMILIO REYES, MARIA DE LOS ANGELES)	
GONZALEZ-ROMAN, RAMIRO CERVANTES-)	
VEGA, FRANCISCO CARMELO MATIAS-)	
CASTRO, PABLO GONZALEZ-ROMAN,)	
BENIGNO VILLAGOMEZ-GARCIA, and)	
SERGIO NARCISO LOPEZ-JUAREZ, on behalf)	CLASS ACTION
of themselves and all other similarly situated)	
persons,)	
)	
Plaintiffs,)	
)	
v.)	
)	
TRIPLE J PRODUCE, INC., HOCUTT)	Civil Action No.: 7:14-cv-302-FL
BROTHERS, INC., HOCUTT FARMS, INC.,)	
JUDY HOCUTT, JOEY M. HOCUTT, JAMES)	
MICHAEL HOCUTT, and M. JAY HOCUTT,)	
)	
Defendants.)	
)	

DECLARATION OF GILDA A. HERNANDEZ

I, Gilda A. Hernandez, under penalty of perjury, state that the following is true and correct.

1. I am submitting this declaration in support of the petitioners' award of attorney fees and costs in the above-captioned matter. The opinions expressed in this declaration are made in accordance with the standards currently applied under 29 U.S.C. § 216(b), 42 U.S.C. § 2000e, and 42 U.S.C. §§ 1981, 1983 & 1988.
2. In 1997, I started my wage and hour career. First, as a United States Department of Labor, Wage and Hour ("DOL") official, enforcing and administering wage and hour laws pursuant to the Fair Labor Standards Act ("FLSA"); Family Medical Leave Act ("FLSA"); Davis Bacon Act

(“DBA”); and Service Contracts Act (“SCA”). As a DOL official, I investigated employers to determine their compliance with all relevant wage and hour laws, regarding overtime, minimum wage, prevailing wages, child labor, misclassification of salaried employees, and H-1(B) issues, in addition to, providing employers with guidance on achieving and maintaining compliance. In 2003, I interned with the United States Department of Labor –Solicitor of Labor, where I conducted legal research on relevant wage and hour laws and determined whether cases were suitable for litigation.

3. I earned a J.D. degree from Southwestern University School of Law, and I have been a member of the North Carolina bar since 2007. Since 2008, I began working in private practice, representing employees exclusively in collective/class action litigation for alleged violations of the FLSA and relevant state laws.

4. In 2013, I started my own law firm, and I continue to represent employees exclusively in individual and class action litigation involving wage and hour law. I have been admitted to the United States District Courts for the Eastern, Middle, and the Western Districts of North Carolina, Northern District of Georgia, District of Connecticut, and Eastern District of New York. I was admitted to practice before the United States Court of Appeals for the Eleventh Circuit in 2016.

5. As plaintiffs’ counsel, I litigate almost exclusively in federal courts and have substantial experience in prosecuting and settling wage and hour class actions, and am well-versed in wage and hour law and class action law.

6. Because of my substantial experience in wage and hour law, prosecuting wage and hour claims, and class and collective actions, I have been appointed class counsel based on that experience. *See Velasquez et al v. Mi Casitas, Rests.*, No. 5:14-CV-448-BO, 2016 U.S. Dist. LEXIS 56089 (E.D.N.C. Apr. 26, 2016) (“The [c]ourt hereby designates plaintiff’s counsel as class

counsel"); *Alfaro Zelaya v. A+ Tires, Brakes, Lubes, & Mufflers, Inc.*, No. 5:13-CV-810-F, 2015 U.S. Dist. LEXIS 130225 (E.D.N.C. Sep. 28, 2015); *McLaurin v. Prestage Foods Inc.*, 271 F.R.D. 465, 479 (E.D.N.C. 2010) ("Prestage does not dispute that counsel for Plaintiffs have sufficient experience to represent a class, and the court finds that plaintiffs' counsel possess the necessary qualifications....Gilda A. Hernandez shall serve as counsel for the class") (affecting approximately 1,800 Class Members); *See Mitchell v. Smithfield Packing Co.*, 2011 U.S. Dist. LEXIS 108974, *10 (E.D.N.C. 2011)1 (".....Gilda Hernandez [who is] capable trial counsel with substantial experience in complex civil litigation, including class action lawsuits"); *Horne v. Smithfield Packing Co.*, 2011 U.S. Dist. LEXIS 108978, *10 (E.D.N.C. 2011) ("The court finds that Ms. Hernandezwill fairly and adequately represent the interests of the class"); *Romero v. Mountaire Farms Inc.*, 796 F. Supp. 2d 700, 715 (E.D.N.C. 2011) ("Mountaire does not dispute that counsel for plaintiffs have sufficient experience to represent a class, and the court finds that plaintiffs' counsel possess the necessary qualifications") (affecting approximately 10,000 poultry processing employees); *Guerrero et al v. Pro Klean, Inc.*, CA No.09CVS29529 (Mecklenburg County, Superior Ct. 2012) ("Ms. Hernandez has specialized experience in the field of wage and hour law.")

7. I have been a member of the American Bar Association, National Employment Lawyers Association, National Employment Law Project, and the North Carolina Advocates for Justice. I have written for and lectured in bar organizations and continuing legal education programs on topics involving wage and hour law, including being a speaker for the National Employment Lawyers' Association wherein over five hundred attorneys from nearly every state participated, the SC/NC Labor and Employment Law Section in 2016, and the North Carolina Advocates for Justice in 2014.

1 Smithfield cases affected collectively, approximately 3,500 Class Members.

8. I have been co-lead counsel and filed over 300 individual actions in the Northern District of Georgia, following decertification of an FLSA nationwide collective action involving over 1000 plaintiffs. I have filed approximately ten (10) collective/class actions in the Eastern District of North Carolina; four (4) collective/class actions in the Middle District of North Carolina, and two (2) collective/class actions in the Western District of North Carolina. I have also filed and settled one (1) collective/class action in the District of Connecticut which involved over 2,500 nationwide plaintiffs for \$8 million dollars, and I tried the first of its kind wage and hour class action in Mecklenburg County and won on behalf of a class of forty (40) workers.

9. It is my experience and opinion that wage and hour employment litigation requires specialized skills and is considered a complex area of practice. Because of these factors, it is ordinarily impractical for an attorney with a general practice to take wage and hour employment cases. Accordingly, attorneys in the employment area rightfully command a higher hourly rate than in many other areas of practice.

10. My firm receives calls from all over the state and country for representation in wage and hour collective/class actions. Many potential clients from North Carolina report that they have been unable to find counsel in their geographic area who are both able and willing to take on wage and hour employment cases when those claims are for small amounts of back wages and involve difficult proof issues involving unrecorded work time. As a result of the above factors, it is very difficult to refer clients with possible meritorious wage and hour employment claims for relatively small amounts of back wages to counsel who are both competent and willing to handle the case.

11. I have even more difficulty making referrals to employment law practitioners anywhere in North Carolina as there are relatively few attorneys in this state who handle wage and hour

employment cases for workers, especially for low wage workers for small amounts of back wages who are unable to pay fees and/or expenses. It is also difficult to find counsel to represent low wage workers in wage claims since often the amounts in question are relatively small compared to the time and expense that is required to litigate those types of claims.

12. My office is in the Eastern District of North Carolina; however, because I handle nationwide actions, statewide, and local cases in the Eastern and Middle Districts of North Carolina, my current hourly rate is \$595 per hour.

13. I am familiar with the market rates for attorneys whose offices are located in the Wake, Durham, or Orange County and who practice in the Eastern and/or Middle Districts of North Carolina. It is my opinion that the market rate for lawyers in the Eastern District of North Carolina Middle District of North Carolina for attorneys will similar skills and experience as mine ranges from \$400-\$600 or more.

14. I am also familiar with the market rates for litigation paralegals and legal assistants whose offices are located in the Wake, Durham, or Orange Counties and who assist attorneys who practice in the Eastern and/or Middle Districts of North Carolina. It is my opinion that the market rate for litigation paralegals and legal assistants with more than five (5) years of experience in the assistance of lawyers who practice wage and hour law in the Eastern District of North Carolina Middle District of North Carolina ranges from \$150 to \$200 per hour depending upon the IT skills that the paralegal or legal assistant may have.

15. I am personally familiar with the experience and skills of Robert J. Willis as I have worked with him as co-lead class counsel, and I believe him to be one of the most experienced and skilled FLSA/NCWHA wage and hour plaintiff's practitioners in North Carolina. In my opinion, the market

rate for an attorney with his experience and skill level in FLSA/NCWHA wage and hour collective/class actions would be a minimum of \$400 per hour. In my experience, given the complexity of collective/class actions, the market rate(s) for attorneys willing to pursue these types of actions has increased over the last five years.

VERIFICATION

I, Gilda A. Hernandez, do declare and say under penalty of perjury that the statements I have made are true and correct.

Respectfully submitted,



Gilda Adriana Hernandez, Esq. NCSB: 36812

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Executed this the 8th day of September, 2016.